

WOMEN-OWNED SMALL BUSINESS (WOSB) FEDERAL CONTRACT PROGRAM FREQUENTLY ASKED QUESTIONS



When Does the WOSB Program Start?

The WOSBFCP will officially start one hundred and twenty days (120) from October 7, 2010.

Who Administers the WOSB Program?

The Small Business Administration (SBA) is charged with implementing and administering the program. This means that SBA publishes regulations that provide the framework for the program, conducts eligibility examinations of WOSB and EDWOSBs, decides protests, conducts studies to determine eligible industries, and works with other Federal agencies in assisting WOSBs and EDWOSBs.

What Are the Laws that Govern the WOSB Program?

On December 21, 2000, Congress enacted the Small Business Reauthorization Act of 2000, Public Law 106-554. Section 811 of that Act added a new section 8(m), 15 U.S.C. 637(m), authorizing Federal contracting officers to restrict competition to eligible Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Business (EDWOSBs) for Federal contracts in certain industries.

What Is the Purpose of the WOSB Program?

The purpose of the WOSBFCP is to enable contracting officers to identify and establish a sheltered market for competition among WOSBs or EDWOSBs for the provision of goods and services to the Federal Government. Restricting competition to WOSBs and EDWOSBs increases their success to compete for and win federal contracts. The program also ensures a level playing field on which such small businesses can compete for Federal contracting opportunities.

How Does my Firm Qualify as a WOSB or EDWOSB?

Qualification as a WOSB To qualify as a WOSB, a concern must be: a small business not less than 51 percent unconditionally and directly owned and controlled by one or more women who are United States citizens.

Qualification as an EDWOSB An eligible business must be not less than 51 percent owned by one or more women who are “economically disadvantaged” (*i.e.* an EDWOSB). However, SBA may waive this requirement of economic disadvantage for industries in

which WOSBs are “substantially underrepresented.” The ownership of the business must be direct as defined in (13 CFR 127.201(b) Requirement for unconditional ownership.

- Ownership of a limited liability company

In the case of a concern that is a limited liability company, at least 51 percent of each class of member interest must be unconditionally owned by one or more women or in the case of an EDWOSB, economically disadvantaged women.

- Ownership of a corporation

In the case of a concern that is a corporation, at least 51 percent of each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding must be unconditionally owned by one or more women, or in the case of an EDWOSB, economically disadvantaged women. In determining unconditional ownership of the concern, any unexercised stock options or similar agreements held by a woman will be disregarded. However, any unexercised stock option or other agreement, including the right to convert non-voting stock or debentures into voting stock, held by any other individual or entity will be treated as having been exercised.

- Control of an EDWOSB or WOSB

To qualify as a WOSB, the management and daily business operations of the concern must be controlled by one or more women. To qualify as an EDWOSB, the management and daily business operations of the concern must be controlled by one or more women who are economically disadvantaged. Control by one or more women or economically disadvantaged women means that both the long-term decision making and the day-to-day management and administration of the business operations must be conducted by one or more women or economically disadvantaged women.

(a) Managerial position and experience. A woman, or in the case of an EDWOSB an economically disadvantaged woman, must hold the highest officer position in the concern and must have managerial experience of the extent and complexity needed to run the concern. The woman or economically disadvantaged woman manager need not have the technical expertise or possess the required license to be found to control the concern if she can demonstrate that she has ultimate managerial and supervisory control over those who possess the required licenses or technical expertise. However, if a man possesses the required license and has an equity interest in the concern, he may be found to control the concern.

(b) Limitation on outside employment. The woman or economically disadvantaged woman who holds the highest officer position of the concern must manage it on a full-time basis and devote full-time to the business concern during the normal working hours of business concerns in the same or similar line of business. The woman or economically disadvantaged woman who holds the highest officer position may not

engage in outside employment that prevents her from devoting sufficient time and attention to the daily affairs of the concern to control its management and daily business operations.

- Control over a partnership

In the case of a partnership, one or more women, or in the case of an EDWOSB, economically disadvantaged women, must serve as general partners, with control over all partnership decisions.

- Control over a limited liability company

In the case of a limited liability company, one or more women, or in the case of an EDWOSB, economically disadvantaged women, must serve as management members, with control over all decisions of the limited liability company.

- Control over a corporation

One or more women, or in the case of an EDWOSB, economically disadvantaged women, must control the Board of Directors of the concern. Women or economically disadvantaged women are considered to control the Board of Directors when either:

(1) One or more women or economically disadvantaged women own at least 51 percent of all voting stock of the concern, are on the Board of Directors and have the percentage of voting stock necessary to overcome any super majority voting requirements; or

(2) Women or economically disadvantaged women comprise the majority of voting directors through actual numbers or, where permitted by state law, through weighted voting.

Involvement in the concern by other individuals or entities. Men or other entities may be involved in the management of the concern and may be stockholders, partners or limited liability members of the concern. However, no males or other entity may exercise actual control or have the power to control the concern.

What Does It Mean To Be Economically Disadvantaged?

An Economically Disadvantaged Women-Owned Small Business (EDWOSB) is a small business concern that is at least 51 percent directly and unconditionally owned and controlled by one or more women who are citizens (born or naturalized) of the United States and who are economically disadvantaged. The EDWOSB automatically qualifies as a women-owned small business eligible for the WOSB Program. A woman is presumed economically disadvantaged if she has a personal net worth of less than \$750,000, her adjusted gross yearly income averaged over the three years preceding the certification does not exceed \$350,000, and the fair market value of all her assets (including her primary residence and the value of the business concern) does not exceed \$6 million.

What Criteria Enables Contracting Officers to Restrict or Set-Aside Contracts for WOSBs?

In order to restrict or set-aside contracts for WOSBs or EDWOSBs, the contracting officer must:

- A contracting officer may restrict competition in industries where SBA has determined that WOSBs or EDWOSBs are underrepresented or substantially underrepresented in Federal procurement, as specified in §127.501. Based upon analysis, SBA will designate by NAICS Industry Subsector Code industries where WOSBs are underrepresented and substantially underrepresented.
- Have a reasonable expectation that two or more EDWOSBs or WOSBs will submit offers for the contract;
- The contract award price must not exceed \$5 million in the case of manufacturing contracts and \$3 million in the case of all other contracts;
- The contract can be awarded at a fair and reasonable price; and

Where Can I Find the List of Eligible Industry Codes?

A complete listing of the Eligible Industry Codes for the WOSBFCP can be found on the SBA's WOSBFCP web page <http://www.sba.gov/wosb>. You may also contact the SBA's Office of Government Contracting Area Offices or the District Offices to obtain a list of eligible Industry Codes.

Am I Required to Self-Certify As a WOSB?

WOSBs and EDWOSBs must self-certify their status in the ***Central Contractor Registration (CCR)*** and the ***On-Line Representations and Certifications Application (ORCA)*** as other small businesses do. WOSBs and EDWOSBs must also submit documents to the WOSB Program Repository. If the Repository is unavailable, documents must be submitted to the Contracting Officer if the WOSB or EDWOSB is selected as the apparent successful offeror. If someone falsely self certifies, misrepresents its status as an WOSB or EDWOSB or provides false information to the Government, the SBA or another Federal agency may propose to suspend and debar you pursuant to the procedures set forth in the FAR, 48 CFR 9.4. In addition, other penalties for criminal activities may be imposed.

What is the WOSB Program Repository?

The WOSB Program Repository is a document repository maintained by SBA to house the documents submitted by EDWOSBs and WOSBs that would verify the concern's eligibility, to include copies of Third Party Certifications. The WOSB Repository is a secure, web-based environment that is accessible to the WOSB and EDWOSB, the contracting officer community and

SBA. The contracting officer will be able to access the documents prior to contract award to review the submitted documents.

What Are Eligibility Examinations?

An eligibility examination is the formal process through which SBA verifies the accuracy of any certification made or information provided as part of the certification process or in connection with an EDWOSB or WOSB contract. An eligibility examination can be conducted at any time and is not tied to a particular solicitation or contract award. The statute also gives SBA the authority to conduct random eligibility examinations of WOSBs and EDWOSBs to minimize fraud and abuse.

How will I know when I am subject to an eligibility examination?

SBA will notify you within 5 business days before commencing an examination. However, SBA may conduct a site visit without prior notification.

How long can my company participate in the WOSB Program?

There is no term limit on program participation like there is in the 8(a) BD Program. You can receive WOSB Program contracts as long as you are eligible for the program and have met all of the requirements set forth in the regulations.

What is a protest?

An EDWOSB or WOSB status protest is a challenge to eligibility status of the EDWOSB or WOSB concern in connection with a specific EDWOSB or WOSB requirement or contract.

Where do I file a protest?

You can file a protest with the contracting officer in person, by facsimile, by express delivery service, email, or by U.S. mail (received by the applicable date). The contracting officer or SBA must file the protest directly with the Director, Office of Government Contracting.

Who Do I Contact For Assistance With the WOSB Program?

For assistance with the WOSBFCP, you may contact the SBA Answer Desk at:

1-800-U-ASK-SBA (1-800-827-5722)

Answer Desk TTY: (704) 344-6640

[\[Spanish\]](#)

For specific questions about WOSB set aside contracts, you may contact the Federal agency contracting officer that is responsible for the contract and/or named in the contract documents. You may also visit SBA's WOSB Federal Contract Program web page at <http://www.sba.gov/wosb> for more information about the program.